REMARKS

In the Office Action dated June 14, 2002, claims 1-3, 7-12, 29, 30, 32, 41-43, 48, 49, 52, 59-65, 70-79, 81, and 84 were rejected under 35 U.S.C. §102(b) as being anticipated by Capezzuto (U.S. Patent No. 3,132,370); claims 1-3, 29-32, 41-43, 48, 49, and 59-63 were rejected under 35 U.S.C. §102(b) as being anticipated by Schwartzman (U.S. Patent No. 3,266,079); claims 38-40, 55, and 67-69 were rejected under 35 U.S.C. §103(a) as being unpatentable over Capezzuto; claim 45 was rejected under 35 U.S.C. §103(a) as being unpatentable over either Capezzuto in view of McCabe et al. (U.S. Patent No. 2,659,919) or Schwartzman in view of McCabe et al.; claims 38-40 and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Schwartzman; and claims 13 and 80 were indicated to contain allowable subject matter.

As an initial matter, Applicant notes that in the Response to Election of Species Requirement that was filed in the U.S. Patent and Trademark Office on March 5, 2002, Applicants elected to prosecute the species of Figs. 5 and 6 and identified claims 1-3, 7-10, 13, and 18-84 as being directed to this species. In the Office Action dated June 14, 2002, the Examiner did not examine all of the claims that were elected in the March 5, 2002 response but did examine some claims that were not elected in that response. To the extent that the claims which were examined in the outstanding Office Action contradict Applicant's elected species and identification of the claims directed toward the elected species set forth in the March 5, 2002 response, Applicant does not automatically subscribe to the Examiner's apparent characterization and identification of the elected species and the claims readable thereon. Nonetheless, Applicant provides herein a full and complete response to the outstanding Office Action. Applicant further

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notes that if independent claims 1 and 64 are found to be allowable, all of their respective dependent claims should be rejoined and also allowed.

Applicant gratefully acknowledges the Examiner's indication that claims 13 and 80 contain allowable subject matter and would be allowed if rewritten in independent form. Applicant has rewritten claims 13 and 80 in independent form as suggested by the Examiner, and therefore those claims should be allowed.

Applicant also has added new dependent claim 85. Support for this claim can be found at least in the specification at the paragraph bridging pages 22 and 23 and at the first full paragraph beginning on page 23, for example.

Claims 1-3, 7-12, 29, 30, 32, 41-43, 48, 49, 52, 59-65, 70-79, 81, and 84 were rejected under 35 U.S.C. §102(b) as being anticipated by Capezzuto (U.S. Patent No. 3,132,370) and claims 38-40, 45, 55, and 67-69 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Capezzuto alone or Capezzuto in view of McCabe et al. (U.S. Patent No. 2,659,919). Of these claims, only claims 1 and 64 are independent.

Claim 1 recites, among other things, an "applicator member including at least one block formed of at least one absorbent material capable of being at least partially compressed."

The Capezzuto reference is directed to a sealable liquid-dispensing applicator. Referring to Figs. 2 and 3, the Capezzuto reference discloses a squeeze-bottle container 10 having a neck portion 16. A housing 24 having a cylindrical flange 26 is received in the neck portion 16. The cylindrical flange 26 has a radially inward extending mouth portion 28 holding a resilient absorbent liquid-permeable membrane 34 and a resilient abrasion-resistant liquid-permeable membrane 36.

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In the rejection of claim 1 based on the Capezzuto reference, the Examiner equates the resilient abrasion-resistant, liquid-permeable membrane 36 to the applicator member recited in claim 1. However, the Capezzuto reference neither discloses nor otherwise suggests that membrane 36 is "formed of at least one absorbent material," as recited in claim 1. Rather, the Capezzuto reference discloses that membrane 34 is absorbent, and not membrane 36. At col. 1, lines 53-57 and at col. 2, lines 64-66, the Capezzuto reference discloses the membrane 36 as being made of a woven or perforated plastic, fiber or sheet material, **not** an absorbent material. Thus, the Capezzuto reference neither discloses nor otherwise suggests an "applicator member including at least one block formed of at least one absorbent material capable of being at least partially compressed," as recited in independent claim 1 and, therefore, independent claim 1 is patentably distinguishable from the Capezzuto reference.

Independent claim 64 recites an applicator device, comprising, among other things, an "absorbent member comprising at least two portions, a first application portion configured to apply the liquid product to a surface to be treated, and a second support portion configured to elastically support the first portion, wherein the first portion has a different density than the second portion."

In rejecting claim 64, the Examiner equated the resilient absorbent liquid-permeable membrane 34 of Capezzuto to Applicant's claimed "first application portion" and equated the resilient abrasion-resistant liquid-permeable membrane 36 of Capezzuto to Applicant's claimed "second support portion." However, as explained above, the membrane 36 taught by Capezzuto is not absorbent. Capezzuto thus fails to disclose or otherwise suggest an "absorbent member comprising . . . a first application

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portion . . . and a second support portion," as recited in independent claim 64 and, therefore, claim 64 is patentably distinguishable from the Capezutto reference.

The McCabe et al. reference relied on in combination with the Capezutto reference to reject certain dependent claims, as noted above, does not cure the above-noted deficiencies of the Capezutto reference, and the Examiner has not asserted otherwise in the Office Action.

Based on at least the above-stated reasons, Applicant respectfully requests the withdrawal of the rejections of independent claims 1 and 64, as well as their respective dependent claims 2, 3, 7-12, 29, 30, 32, 38-43, 45, 48, 49, 52, 55, 59-63, 65, 67-79, 81, and 84, based on the Capezutto reference, whether applied alone or in combination with the McCabe et al. reference.

Claims 1-3, 29-32, 41-43, 48, 49, and 59-63 were rejected under 35 U.S.C. §102(b) as being anticipated by Schwarzman (U.S. Patent No. 3,266,079) and claims 38-40, 45, and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Schwartzman alone or Schwartzman in view of McCabe et al.

The Schwartzman reference is directed to a spin welded applicator. Referring mainly to Figs. 1, 4, and 5, the Schwartzman reference discloses a container 12 and a dauber assembly 14 adapted to be permanently attached to the container 12. The dauber assembly 14 includes a valve housing 15 and a disc 20. The valve housing 15 houses a spring 32 of helical coils which is secured to a valve head 36. The disc 20 has a lower layer 23 made of a polyurethane foam and an upper layer 21 formed of a nylon knitted brush fabric.

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In rejecting independent claim 1 based on the Schwartzman reference, the Examiner equated the lower layer 23 of the disc 20 taught by Schwartzman to Applicant's recited "applicator member," asserting that the lower layer 23 has "a product application surface." The Examiner further equated the valve spring 32 of Schwartzman to Applicant's recited "elastically compressible support," and asserted that "the support 32 [has] a compressibility greater than the compressibility of the applicator member."

Contrary to the Examiner's assertion, the Schwartzman reference neither discloses nor otherwise suggests that the spring 32 has a compressibility greater than the compressibility of the lower layer 23. Indeed, the Schwartzman reference is utterly silent with respect to the relative degrees of compressibility possessed by those two elements. Notably, the Examiner has failed to point to any specific disclosure in the Schwartzman reference to support his assertion. Further, nothing in the Schwartzman reference would teach or suggest that the spring 32 inherently has a compressibility greater than the compressibility of the lower layer 32. Therefore, the Schwartzman reference fails to disclose or otherwise suggest an "an elastically compressible support supporting the applicator member in the reservoir, the support having a compressibility greater than the compressibility of the application member," as recited in independent claim 1. For at least this reason, claim 1 is patentably distinguishable from the Schwartzman reference.

In addition, the McCabe et al. reference does not cure the above-noted deficiencies of the Schwartzman reference. Indeed, the Examiner does not assert otherwise in the Office Action.

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Based on the above-stated reasons, Applicant respectfully requests the withdrawal of the rejections of independent claim 1, as well as dependent claims 2, 3, 29-32, 38-43, 45, 48, 49, 55, and 59-63, based on the Schwartzman reference, whether applied alone or in combination with the McCabe et al. reference.

Applicant respectfully requests the withdrawal of the outstanding rejections, the rejoinder of claims 4-6, 14-28, 33-37, 44, 46, 47, 50, 51, 53, 54, 56-58, 66, 82, and 83, and the timely allowance of claims 1-85.

In accordance with 37 C.F.R. §1.121(c)(1)(ii), Applicant has attached an Appendix showing the changes to the claims, with deletions shown by bracketing and additions shown by underlining.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: September 13, 2002

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APPENDIX

Applicant supplies this Appendix showing the changes to the claims, with deletions shown by bracketing and additions shown by underlining, in accordance with 37 C.F.R. §1.121c(1)(ii). This Appendix is not intended to be part of the application.

13. (Amended) [The] An applicator device [of claim 1] for a liquid product, the applicator comprising:

a reservoir for containing the liquid product, the reservoir having an opening;

a removable closure member for sealably closing the opening;

an applicator member provided in the reservoir, the applicator member including a first end portion configured to be impregnated with the product and a second end portion, opposite the first end portion, the second end portion including a product application surface and being axially moveable between a first position wherein the second end portion extends out of the reservoir through the opening, and a second position wherein the second end portion is at least substantially contained in the reservoir, the applicator member including at least one block formed of at least one absorbent material capable of being at least partially compressed; and

an elastically compressible support supporting the applicator member in the reservoir, the support having a compressibility greater than the compressibility of the application member,

wherein the support includes a stack of at least two blocks of elastically deformable material, the stack having a compressibility that is greater at an end of the stack adjacent the reservoir than at an opposite end of the stack.

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80. (Amended) [The] An applicator device [of claim 64] for a liquid product, the applicator comprising:

a reservoir for containing the liquid product, the reservoir having an opening; and

an absorbent member provided in fluid communication with the reservoir, the absorbent member comprising at least two portions, a first application portion configured to apply the liquid product to a surface to be treated, and a second support portion configured to elastically support the first portion, wherein the first portion has a different density than the second portion, and

wherein the second support portion includes a stack of at least two blocks of elastically deformable material, the stack having a compressibility that is greater at an end of the stack adjacent the reservoir than at an opposite end of the stack adjacent the application portion.

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